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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,947	01/13/2004	Norman F. Krasner	000730C1	3281

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EXAMINER	
CUMMING, WILLIAM D	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/756,947	KRASNER, NORMAN F.	
	Examiner	Art Unit	
	WILLIAM D. CUMMING	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 February 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-84* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-84* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-3, 5-17, 20-29, 31, 34-39, 43-61, 65-68, 71-75 and 79-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Murphy** in view of **Timo, et al**

Murphy disclose all subject matter claimed, note paragraph 9 of the Office action dated September 16, 2004, except for common information comprises data that is concurrently contained in more than one of the received SPS signals. **Timo, et al** teaches the use of common information comprises data that is concurrently contained in more than one of the received SPS signals in a method and system for satellite positioning system (SPS) signal processing for the purpose of highly accurate positioning measurements.

Hence, it would have been obvious for one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of common information comprises data that is concurrently contained in more than one of the received SPS signals, as taught by **Timo, et al,** in the method and system for satellite positioning system (SPS) signal processing of **Murphy** in order to have highly accurate positioning measurements.

4. Claims 1-3, 5-17, 20-29, 31, 34-39, 43-61, 65-68, 71-75 and 79-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Stansell Jr**. or **Stansell, Jr., et al** in view of **Timo, et al**

Stansell Jr. or **Stansell, Jr., et al** disclose all subject matter claimed, note paragraph 10 of the Office action dated September 16, 2004, except for common information comprises data that is concurrently contained in more than one of the received SPS signals. **Timo, et al** teaches the use of common information comprises data that is concurrently contained in more than one of the received SPS signals in a method and system for satellite positioning system (SPS) signal processing for the purpose of highly accurate positioning measurements.

Hence, it would have been obvious for one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of common information comprises data that is concurrently contained in more than one of the received SPS signals, as taught by **Timo, et al,** in the method and system for satellite positioning system (SPS) signal processing of **Stansell Jr**. or **Stansell, Jr., et al** in order to have highly accurate positioning measurements.

5. Claims 4, 18, 30, 31, 33, 40, 41, 62, 63, 69, 70, 76, 77, and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Murphy** or **Stansell Jr**. or **Stansell, Jr., et al** in view of **Timo, et al** as applied to the claims above, and further in view of **Jones, et al**.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

7. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

8. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-84 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. **09/074,021**. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the continuation are broader then the claims in the parent application (In re Van Ornum and Stanz, 214 USPQ 761).

10. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

11. Claims 1-84 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 5,812,087 in view of **Murphy** as stated by paragraph 7 of Office actions dated March 21, 2000 and December 9, 2002.

Response to Arguments

12. Applicant's arguments filed February 27, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, **Timo, et al** teaches the use of common information comprises data that is concurrently contained in more than one of the received SPS signals in a method and system for satellite positioning system (SPS) signal processing ***for the purpose of highly accurate positioning measurements.*** Hence, it would have been obvious for one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of common information comprises data that is concurrently contained in more than one of the received SPS signals, as taught by **Timo, et al,** in the method and system for satellite positioning system (SPS) signal processing of **Murphy** ***in order to have highly accurate positioning measurements.***

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant states that there is no common information in **Timo, et al**. This is clearly seen in the abstract and drawings by a glance review. One such common information is the predetermined survey mark. Another is the predetermined positional coordinates of the mobile receiver and processor. If the applicant uses such wide, broad and sweeping terms like "*common information*", it should not be surprise that the examiner examines the claim just as broadly.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

15. If applicants wish to request for an interview, an *"Applicant Initiated Interview Request"* form (PTOL-413A) should be submitted to the examiner prior to the interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed *"Applicant Initiated Interview Request"* form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

16. If applicants request an interview after this **final rejection**, prior to the interview, the intended purpose and content of the interview should be presented briefly, in writing. Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to **restate arguments** of record or to **discuss new limitations** which would require more than nominal reconsideration or new search will be denied.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM D. CUMMING** whose telephone number is 571-272-7861. The examiner can normally be reached on Monday-Thursday, 11:00am-8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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